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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/720,280	12/21/2000	Thomas Eckel	MO-6035/LEA-	1062

157 7590 07/01/2002

BAYER CORPORATION
PATENT DEPARTMENT
100 BAYER ROAD
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EXAMINER

SZEKELY, PETER A

ART UNIT	PAPER NUMBER
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1714

DATE MAILED: 07/01/2002

9

Please find below and/or attached an Office communication concerning this application or proceeding.

MF-9

Office Action Summary

Application No. 09/220,280	Applicant(s) Bickel et al
Examiner Szekely	Group Art Unit 1714

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☒ Responsive to communication(s) filed on 5/3/02
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 2-18, 20, 22 and 23 is/are pending in the application.
- ☐ Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☐ Claim(s) _____ is/are rejected.
- ☒ Claim(s) 2-18, 20, 22 and 23 is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☒ All ☐ Some* ☐ None of the:
 - ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

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DETAILED ACTION

Specification

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 2, 6, 7, 9-16, 22 and 23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claim 6 is rendered indefinite by the phrase "derivatives of unsaturated carboxylic acids". Carbon dioxide is a derivative of said acids. It is derived by burning. In claim 14, "iron oxides" are listed twice. Claims 2 (7 times), 6 (twice), 7, 9-16, 22 and 23 contain improper Markush language. If the last conjunction is "and", the claim has to recite "selected from the group consisting of". Always. Without exception. Even after "at least one of".

Claim Rejections - 35 USC § 103

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5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 2-18, 20, 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mitsubishi Chemical Company EP 0 728 811, in view of Bodinger 5,849,827.

7. Both references have been discussed in Paper #6. Mitsubishi discloses everything but the particle size of the filler. Bodinger et al. recite a polycarbonate, ABS, PTFE, blend, which is flameproofed by phosphorus containing flame retardants, and demonstrates in Table 1, that the particle size of the fillers improves the flame retardance. Thus, it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to use the fillers of Bodinger et al., in the composition of Mitsubishi, in order to further improve the flame retardance.

Response to Arguments

8. Applicant's arguments filed 5/3/02 have been fully considered but they are not persuasive. Mitsubishi does not teach away from the use of non-phosphazane phosphorus containing compounds. The only conclusion drawn is that said phosphorus containing compounds are not as efficient flame retardants as phosphazanes. There is no indication that a blend of flame retardants or an auxiliary flame retardant would be unwelcome. A suggestion to combine does not have to come from the cited references. It can come from the knowledge of one of ordinary skill in the art. The improvement in flame retardance demonstrated by Bodinger et al. is sufficient motivation. The rejection is maintained.

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter Szekely whose telephone number is (703) 308-2460. The examiner can normally be reached on Tuesday-Friday from 7:00 a.m. to 5:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan, can be reached on (703) 306-2777. The fax phone number for the organization where this application or proceeding is assigned is (703) 873-9311 (After-Final) and (703) 872-9310 (Non After-final).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



Peter Szekely
Primary Examiner
Art Unit 1714